

Appln No. 09/711,648
Amdt date June 27, 2006
Reply to Office action of December 27, 2006

REMARKS/ARGUMENTS

Claims 1-20, 23-28, 30-35, 39 and 42-47 now remain pending in this application. Applicant has amended claims 1, 9 and 23. The amendments find full support in the original specification, claims and drawings. No new matter is presented. Applicant respectfully submits that all of pending claims 1-20, 23-28, 30-35, 39 and 42-47 are in condition for allowance. Accordingly, Applicant respectfully requests a timely indication of allowance.

In the Final Rejected dated December 27, 2006, the Examiner rejected claims 1, 5-12, 17-20, 23, 27, 28, 32, 33, 39, 42 and 43 under 35 U.S.C. § 103(a) as allegedly obvious over Edwards, et al. (U.S. Patent No. 5,435,805)("Edwards '805") in view of Gough, et al. (U.S. Patent No. 5,810,804) and further in view of Edwards, et al. (U.S. Patent No. 5,554,110)("Edwards '110"). In so arguing, the Examiner asserts that Edwards '110 discloses "a needle that extends distally beyond the distal end of the tip section in a direction along the longitudinal axis of the tip section." Office action, page 4. However, Applicant has amended independent claims 1, 9 and 23 to recite that the injection needle "can extend distally out the distal face of the catheter body [or tip section] in a direction along the longitudinal axis of the catheter body [or tip section] to penetrate tissue generally facing the distal face of the catheter body [or tip section]." None of Edwards '805, Gough or Edwards '110 teach or suggest such a feature. As noted in Applicant's response filed March 27, 2006, Edwards '110 discloses a stylet guide housing having a curved passageway through which a stylet is extended and notes that the details of the stylet guide housing are described in Edwards, et al. (U.S. Patent No. 5,370,675)("Edwards '675"). Column 6, line 67 through column 7, line 5. Edwards '675 discloses stylet ports located in the side wall of the stylet guide housing and proximal the distalmost end of the probe. As such, Edwards '675 and Edwards '110 fail to teach or suggest that the needle electrode can penetrate tissue generally facing the distal face of the catheter body or tip section, as recited in amended independent claims 1, 9 and 23. Therefore, independent claims 1, 9 and 23, and all claims dependent therefrom, including claims 2-8, 10-20, 24-28, 30-35, 39 and 42-47, are allowable over Edwards '805, Gough and Edwards '110.

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The Examiner also rejected claims 2-4 and 24-26 under 35 U.S.C. § 103(a) as allegedly obvious over Edwards '805. However, each of claims 2-4 and 24-26 depends from either claim 1 or claim 23, and Edwards '805 fails to disclose an injection needle that can penetrate tissue generally facing the distal face of the catheter body or tip section, as recited in those claims. Therefore, claims 2-4 and 24-26 are allowable over Edwards '805.

Finally, the Examiner rejected claims 12-16, 30, 31, 34, 35 and 44-47 under 35 U.S.C. § 103(a) as allegedly obvious over Edwards '805 in view of Edwards, et al. (U.S. Patent No. 5,599,294)("Edwards '294") and further in view of Edwards '675. However, each of claims 12-16, 30, 31, 34, 35 and 44-47 depends from either claim 1, 9 or 23, and none of Edwards '805, Edwards '294 and Edwards '675 disclose an injection needle that can penetrate tissue generally facing the distal face of the catheter body or tip section, as recited in those claims. Accordingly, claims 12-16, 30, 31, 34, 35 and 44-47 are allowable over Edwards '805, Edwards '294 and Edwards '675.

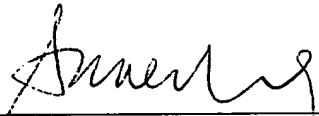
As Applicant has stressed, the tissue most discussed in the Edwards patents is the prostate, an organ whose accessibility via a catheter or probe through the urethra does not easily lend itself to tissue penetration by a catheter or probe whose injection needle is adapted to extend distally beyond the distal end of the tip section of the catheter in a direction along the longitudinal axis of the tip section to penetrate tissue generally facing a distal face of the tip section. Indeed, none of the disclosures or drawings of the Edwards patents revealed use of the probe with tissue generally facing a distal face of the probe's tip section. Applicant disagrees with the Examiner's position that it would have been an obvious matter of design choice to change the shape of the tip section so that the injection needle can be parallel to the axis of the catheter body. Such a modification would have resulted in little, if any, tissue penetration by the Edwards probes (and any such injection needle would extend into the urethra) because there would have been little, if any, tissue generally facing a distal face of the tip section. As such, one of ordinary skill in the art would have had no motivation to look to any of the Edwards patents in designing a catheter or probe whose injection needle is adapted for penetrating tissue

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generally facing a distal face of its tip section. A probe for treating the prostate as accessed via the urethra poses an entirely different set of challenges.

In view of the above amendments and remarks, Applicant respectfully submits that all of pending claims 1-20, 23-28, 30-35, 39 and 42-47, as amended, are in condition for allowance. Applicant therefore respectfully requests a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number below.

Respectfully submitted,
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